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| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
|--------------------|-------------|-----------------------|---------------------|
| 08/532, 415        | 09/22/95    | MEGENS                | J 53142/9086        |

DAVID B SMITH  
MICHAEL BEST & FRIEDRICH  
100 EAST WISCONSIN AVENUE  
MILWAUKEE WI 53202-4108

CSM1/1028

EXAMINER

LISEHORA, J

ART UNIT PAPER NUMBER

3506

10 m.s.

DATE MAILED:

10/28/96

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

9/4/96

Responsive to communication(s) filed on

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-21 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-4 and 6-21 is/are rejected.

Claim(s) 5 is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on 9/4/96 is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) 07/487892.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of Reference Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 2 1/2

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948.

Notice of Informal Patent Application, PTO-152

SEE OFFICE ACTION ON THE FOLLOWING PAGES

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**DETAILED ACTION*****Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al (U.S. 3,659,899). Regarding Claims 1 and 12, Phillips et al teach all of the recited structure with the possible exception that the base (floor 65) is not inclined. It would have been obvious to incline the base in order to facilitate water drainage, for example. Regarding Claim 8, it would have been obvious to provide a housing in a bottom portion of the recess in order to provide the side walls shown surrounding the bag 66 in Figure 6 and to facilitate installation and removal of the section 63 and bag 66 from the loading platform 62.

Claims 2, 6-7 and 13-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al (U.S. 3,659,899) in view of Smock (U.S. 3,784,255). Regarding Claims 2 and 13-15, Phillips et al teach a ventilator (pneumatic pump 50). It would have been obvious, in view of this teaching, to provide a ventilator for inflating the bag 66. Smock teaches a bag assembly 35 including an opening in a bottom portion for allowing communication with a ventilator (a source

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of supply of air under pressure, such as air tanks 48). It would have been obvious, in view of this teaching of Smock, to locate an opening in the bottom of the inflatable flexible body (bag 66). It further would have been obvious to position a ventilator (such as an air compressor or compressed air tanks) under the inclined base in order to eliminate a necessity for extensive piping and to protect the ventilator from the weather, heavy machinery, abuse, and/or vandalism.

Regarding Claims 6-7, the "bellows" and "air spring" are not recited in sufficient detail to distinguish from the bag 66 of Phillips or the assembly 35 of Smock. The rings 37 of Smock (U.S. 3,784,255) are seen to constitute "a rigid bottom and a rigid top". It would have been obvious in view of the rings 37 of Smock, to connect the "bellows" or "air spring" to the bottom surface of the section 63 of Phillips et al in order to avoid shifting of the flexible body relative to the section 63. Regarding claims 16-17, it would have been obvious, in view of Smock, to make the periphery of the bag smaller than the periphery of the planar member in order to reduce the volume of air needed to operate the apparatus and/or to reduce the amount of material (and weight and expense) needed to form the bag 66.

Regarding claims 18-19, note clamping ring units 37a of Smock (U.S. 3,784,255). Regarding claim 20, note rings 37. Regarding claim 21, note that the rings 37 of Smock are attached to the assembly 35 and to the body 12 by some type of fastener. It would have been obvious to use buttons because many types of fasteners employ buttons or button-like structures in order to help distribute loads and stresses.

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Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al (U.S. 3,659,899) as applied to claims 1, 8 and 12 above, and further in view of Scott (U.S. 3,822,861). Scott teaches in column 5, line 50, that nylon mesh reinforced polyethylene is an appropriate material for an inflatable bladder. Accordingly, it would have been obvious to use polyethylene for the inflatable bag 66 of Phillips et al (U.S. 3,659,899) since it is also an inflatable bladder.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al (U.S. 3,659,899) as applied to claims 1, 8 and 12 above, and further in view of Beer (AU 588734).

Beer teaches on page 5, that a PVC-coated polyester fabric is a suitable flexible material for the inflatable bag 40. Accordingly, it would have been obvious to make the bag 66 of Phillips et al (U.S. 3,659,899) of PVC since it is an inflatable bag for essentially the same purpose as the bag 40 of Beer.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al (U.S. 3,659,899) as applied to claims 1, 8 and 12 above, and further in view of Pfleger et al (U.S. 3,902,213). It would have been obvious, in view of the lip 8 of Pfleger et al (U.S. 3,902,213), to provide a similar lip on the section 63 of Phillips et al (U.S. 3,659,899) in order to provide an extension of the section 63.

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*Response to Arguments*

Applicant's arguments filed September 4, 1996 have been fully considered but they are not persuasive.

The applicant's representative has argued that Phillips discloses a loading dock having a level (i.e., horizontal) floor 65. The applicant's representative has failed to point out where the reference states the floor 65 is horizontal or where the reference states the floor 65 is level. It remains the Examiner's position that, as in the construction of a sidewalk, road, runway, roof, or other "horizontal" surface, it would have been obvious to provide some pitch to facilitate water drainage.

On pages 7-9, the applicant's representative has argued that neither reference provides a suggestion of locating a ventilator under an inclined base. It is well-known to provide compressed air tanks, pumps, fans, blowers, etc. in shelters and in underground locations to get them out of sight, and to protect them from the weather, impact from heavy machinery, vandalism, theft, etc. Accordingly, locating a ventilator of the present invention under the floor 65 of Phillips et al is an obvious improvement of Phillips et al based upon well-known solutions to old and well-understood problems.

On page 10, the applicant's representative has argued that "Neither of the cited references teaches the claimed loading bridge having a pivotally-mounted planar member and a flexible body with a periphery spaced inwardly from the periphery of the planar member". The periphery of the air bag assembly of Smock is clearly spaced inwardly from the periphery of the planar member

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(bottom of dump body 12). Such an arrangement provides the advantages that "a minimum lift will dump the body" (column 1, lines 14), that "a short stroke of the bag assembly will produce a substantial lift of the body to dumping position" (column 1, lines 19-20), and that "maximum lift will be produced with minimum deterioration of the air bags" (column 1, lines 33-34).

Accordingly, it would have been obvious to modify Phillips et al to include an inflatable flexible body having a periphery that is spaced inwardly from a periphery of the planar member in order to provide these advantages.

On pages 11-12, the applicant's representative has argued that claims 20-21 are patentable because Smock does not suggest the means for detachably connecting an upper surface of the inflatable flexible body with a lower surface of the planar member. The Examiner does not agree. Smock implies (column 1, lines 33-34) that air bags deteriorate, and has therefore provided clamping ring units 37 which one of ordinary skill in the art would desire to be detachable and replaceable in order to permit replacement of worn out air bags.

#### *Allowable Subject Matter*

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim Lisehora whose telephone number is (703) 308-2145.

*JL*  
JAL  
October 25, 1996

*Tamara L. Graysay*  
TAMARA L. GRAYSAY  
SUPERVISORY PATENT EXAMINER  
GROUP 3500

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|-------------------------------------|---|--|-------------------------|---------|---|-------------|--------------------------|--------------------------|-------|
| <b>Notice of References Cited</b>   |   |  | Application/Control No. |         | Applicant(s)/Patent Under Reexamination |             |                          |                          |       |
|                                     |   |  | 08/747,873              |         | MEGENS, JOHANNES H                      |             |                          |                          |       |
|                                     |   |  | Examiner                |         | Art Unit                                | Page 1 of 1 |                          |                          |       |
|                                     |   |  | H. Shackelford          |         | 3671                                    |             |                          |                          |       |
| <b>U.S. PATENT DOCUMENTS</b>        |   |  |                         |         |   |             |                          |                          |       |
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| <b>FOREIGN PATENT DOCUMENTS</b>     |   |  |                         |         |   |             |                          |                          |       |
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| <b>NON-PATENT DOCUMENTS</b>         |   |  |                         |         |   |             |                          |                          |       |
| *                                   |   | DOCUMENT (Including Author, Title Date, Source, and Pertinent Pages)                                       |                         |         |   |             | DOCUMENT SOURCE **       |                          |       |
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\*A copy of this reference is not being furnished with this Office action (See Manual of Patent Examining Procedure, Section 707.05(a).)

\*\*APS encompasses any electronic search i.e. text, image, and Commercial Databases

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PTO-892 (Rev. 03-98)